

No protest rec'd
5-18-92

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 2508
Cincinnati, OH 45201

Date: MAY 14 1992

Person to Contact:

Telephone Number:

Refer Reply to:

EP/EO

Employer Identification Number:

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code. We have concluded that you may qualify under section 501(c)(4) of the Code, but you do not wish classification under that subsection.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that:

A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,

[REDACTED]

District Director

Enclosures: 3

ENCLOSURE I

[REDACTED]

A review of your application and subsequent correspondence indicates that you were incorporated in the State of [REDACTED] on [REDACTED]. Your Articles of Incorporation state that your purpose is to provide, without profit, a facility to be used primarily by [REDACTED] in the [REDACTED] area to assist the rehabilitation of alcoholics.

You indicate that the community needs a place for alcohol anonymous activities. Since these groups cannot own a facility, your formation is necessary.

You indicate, without your facility, the [REDACTED] groups have to meet at a public facility. Your sole activity is to provide a facility for these groups to meet. The groups you intend to rent your facility to are not exempt from Federal income tax.

Form 1023 stated your sources of income are membership dues, donations from members and community and fundraising events. You originally anticipated raising funds through state licensed bingo, Las Vegas nights, and community oriented meal programs. You later stated you do not conduct these fundraising events.

Your letter dated [REDACTED] states your facility will be financed by rental income, membership fees, donations and grants. Your letter dated [REDACTED] states the income reported as rent is actually a donation from those groups that use your facility.

You project there will be [REDACTED] meetings per month at \$[REDACTED] per meeting. Your rental rates are approximately [REDACTED] percent below cost.

Your letter dated [REDACTED] states your members are the same as the members of [REDACTED].

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Regulations states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

[REDACTED]

Section 1.501(c)(3)-1(a)(2) of the Regulations states that the term "exempt purpose or purposes", means any purpose or purposes specified in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Revenue Ruling 69-572, 1969-2 C.B. 119, states a nonprofit organization created to construct and maintain a building for the exclusive purpose of housing and serving exempt member agencies of a community chest, may be exempt under section 501(c)(3) of the Code.

Although you provide a place for the [REDACTED] groups at a rate below cost, your member groups are not exempt under section 501(c)(3) of the Internal Revenue Code. You differ from the organization cited in Revenue Ruling 69-572 because that organization provides a place for organizations exempt under section 501(c)(3) of the Code. Your activity is not considered a charitable or an educational activity described under section 501(c)(3) of the Code. Therefore, you do not meet the operational test under section 501(c)(3) of the Code.

Providing a facility for a fee is not a donation, but rental income. You must take an immediate action to notify these patrons that their payments are not tax deductible donations. You also must notify all donors or grantors that their donations are not tax deductible.

Accordingly, we have concluded that you do not qualify for exemption from Federal income tax under section 501(c)(3) of the Code and contributions to you are not deductible by donors under section 170 of the Code.

This is a denial letter.